federal register

Friday
June 19, 1992

Part IX

Department of Interior

Fish and Wildlife Service

50 CFR Part 20

Supplemental Proposals for Migratory Game Bird Hunting Regulations; Notice of Meetings; Proposed Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN: 1018-AA24

Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations; Notice of Meetings.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter the Service) proposed in an earlier document to establish annual hunting regulations for certain migratory game birds. This supplementary document describes proposed changes and provides additional information that will facilitate establishment of the 1992–93 hunting regulations. This document also announces the meetings of the Service Migratory Bird Regulations Committee.

DATES: The Service Migratory Bird Regulations Committee will meet to consider and develop proposed regulations for early seasons on June 23, 24, and 25, and for late seasons on and August 4, 5, and 6. Public hearings on proposed early- and late-season frameworks will be held at 9:00 a.m. on June 25 and August 6, 1992, respectively. The comment period for proposed migratory bird hunting-season frameworks for Alaska, Hawaii, Puerto Rico, the Virgin Islands, and other early seasons will end on July 20, 1992; and for late-season proposals will end on August 30, 1992.

ADDRESSES: Meetings of the Service Migratory Bird Regulations Committee will be held in the Board Room of the American Institute of Architects Building, 1735 New York Avenue (at the corner of 18th and E Streets, NW.), Washington, DC. Both public hearings will be held in the Auditorium of the Department of the Interior Building, 1849 C Street, NW., Washington, DC. Written comments on the proposals and notice of intention to participate in either hearing should be sent to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, room 634—Arlington Square, Washington, DC 20240. Comments received will be available for public inspection during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Thomas J. Dwyer, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, room 634—Arlington Square, Washington, DC 20240 (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1991

On May 8, 1992, the Service published in the **Federal Register** (57 FR 19865) a proposal to amend 50 CFR part 20. The proposal dealt with establishment of seasons, limits, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. This document is the second in a series of proposed, supplemental, and final rules for migratory game bird hunting regulations. Comment periods on this second document are specified above under **DATES**. Early-season frameworks will be proposed in late June and late-season frameworks in early August. Final regulatory frameworks for early seasons are targeted for publication on or about August 17, 1992, and those for late seasons on or about September 23, 1992.

On June 25, 1992, a public hearing will be held in Washington, DC, to review the status of migratory shore and upland game birds. Recommended hunting regulations for these species and other early seasons will be discussed at that time.

On August 6, 1992, a public hearing will be held in Washington, DC, to review the status of waterfowl and recommended hunting regulations for regular waterfowl seasons, and other species and seasons not previously discussed at the June 25 public hearing.

Announcement of Service Regulations Committee Meetings for Early-Season Regulations

The meeting on June 23 is to review information on the 1991 status of migratory game birds and to develop 1992–93 migratory game bird regulations recommendations. The June 24 meeting is to assure that the Service's regulation recommendations are developed with the benefit of full consultation on the issues.

In accordance with Departmental policy regarding meetings of the Service Regulations Committee that are attended by any person outside the Department, these meetings will be open to public observation. Members of the public may submit to the Director written comments on the matters discussed.

Announcement of Flyway Council Meetings

Service representatives will be present at the following meetings of Flyway Councils:

Atlantic Flyway—July 29–30, Wrightsville, North Carolina (Shell Island Hotel)

Mississippi Flyway—July 29–30, Springfield, Missouri (Ramada Hotel - Hawthorn Park)

Central Flyway—July 30–31, Yellowknife, NWT (Discovery Inn)

Pacific Flyway—July 30–31, Reno, Nevada (Peppermill Inn)

Although agendas are not yet available, these meetings usually commence at 8:30 to 9 a.m. on the days indicated.

Review of Public Comments

This supplemental rulemaking describes changes which have been recommended based on the preliminary proposals published May 8, 1992, in the **Federal Register**. Only those recommendations that would require either new proposals or substantial modification of the preliminary proposals to facilitate effective public participation are included herein. Those that support or oppose but do not recommend alternatives to the preliminary proposals are not included, but will be considered later in the regulations-development process. The Service will publish responses to proposals, written comments, and public-hearing testimony when final frameworks are developed, at which time additional data about the status of affected species will be available.

The Service seeks additional information and comments on the recommendations contained in this supplemental proposed rule. These recommendations and all associated comments will be considered during development of the final frameworks.

New proposals and modifications to previously described proposals are discussed below. Wherever possible, they are discussed under headings corresponding to the numbered items in the May 8, 1992, **Federal Register** (57 FR 19865).

1. Ducks.

The categories used to discuss issues related to duck harvest management are as follows: (A) General Harvest Strategy, (B) Framework Dates, (C) Season Length, (D) Closed Seasons, (E) Bag Limits, (F) Zones and Split Seasons, and (G) Special/Species Management. Only those categories containing substantial recommendations are included below.

B. Framework Dates

The Atlantic Flyway Council recommended that the framework opening date may be used as a tool for managing harvests of certain duck populations in the Atlantic Flyway.

Under normal circumstances, the opening date in the Atlantic Flyway should be October 1. Framework closing dates should not be used as a tool for managing duck harvest and should be fixed indefinitely at no earlier than January 15 for the Atlantic Flyway.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that framework dates be fixed dates not subject to annual fluctuations and that the fixed dates should be the Saturday nearest October 1 through January 20.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the Service not use framework dates as a basic tool to adjust harvest, but if framework dates are used, the Service should develop a well-designed study to clarify the various impacts of framework dates. The Committee had previously recommended that framework dates be the Saturday nearest October 1 to the Sunday nearest to January 20. They stated that framework impacts cannot be separated from other past regulatory changes and that the current framework application may not provide equal regulatory fairness throughout the flyway.

The Central Flyway Council noted that the Service's review of framework dates has failed to provide evidence of measurable benefits from the use of framework dates to regulate harvests. The Council stated that the use of framework dates for harvest management is selective in its impact on northern and southern States. In the North, early migrations of some species are complete before seasons open. In the South, seasons are closed before migrations are complete. The Council believes that harvest management should focus on more equitable regulations, such as season length and daily bag limits. Framework dates should not be used to regulate annual harvests, but should be used to establish an appropriate biological framework for duck hunting.

The Pacific Flyway Council recommended that manipulation of hunting-season framework dates should continue to be an option in regulating duck harvest. The Service should not eliminate any duck harvest management options, although the evaluation conducted by the Service to assess the impact of utilizing framework dates to regulate harvest was inconclusive.

G. Special/Species Management

i. *Canvasback Harvest Management.* The Atlantic Flyway Council recommended that the Service develop an interim strategy for canvasback harvests to be used until the resolution of stabilized regulation guidelines. This interim strategy should be based on current biological data, including information that indicates the East/West delineation of the canvasback population is no longer warranted. The Council stated that this interim strategy should be equitable among the 4 flyways.

The Central Flyway Council recommended that a season be initiated when the continental breeding population index exceeds 450,000 (3-year average) and the pond index exceeds 3 million. This season would continue until the continental breeding population index falls below 400,000 (3-year average). The Council stated that banding data suggest the canvasback population is not comprised of two distinct subpopulations and that all flyways should be given an opportunity to conduct a season. The Council recommended that this interim strategy be used until the concept of stabilized regulations becomes operational.

The Pacific Flyway Council recommended that the Service continue to manage Canvasback harvest by subunits. They strongly believe that management actions are most effective when they recognize biological differences among and within populations. Although Western and Eastern canvasback populations are not completely distinct, biological differences do exist that should be recognized in management design. The Council specifically recommended that the quality of the midwinter survey be improved with respect to canvasbacks in the western United States, that the aggregate canvasback/redhead bag should be maintained, that the Service evaluate the cost of trapping and banding required to better determine distribution and derivation of canvasback harvests, and that population harvest strategies be developed that distinguish between Western and Eastern populations, but remain sensitive to population overlap.

ii. *Pintail Harvest Management.* The Central Flyway Council recommended that the Service maintain the current harvest regulations unless a significant decline occurs in the breeding population index. If such a decline should occur, coordination should be initiated between the Service and the flyways to develop options for conservation of the pintail. The Council recognized the low population status of the pintail but indicated that sport harvest was not the cause of the decline, there is no biological justification for closing the pintail season, and a closed season for pintails would complicate regulations and hamper habitat-management efforts.

The Pacific Flyway Council recommended that harvest management options short of season closures should be pursued. Total season closure seems inappropriate because of the lack of evidence that demonstrates population levels have been or are now being regulated by harvest. Closure also may negatively impact support for ongoing habitat-enhancement efforts.

iii. *Experimental September Duck Seasons.* Several recommendations addressing increased harvest opportunities for teal in September referenced the experimental September duck seasons. These seasons are currently limited to wood ducks. Recommendations regarding increased opportunities for blue-winged teal are summarized under September Teal Seasons.

iv. *September Teal Seasons.* The Atlantic Flyway Council recommended that Florida be allowed to hold a September teal season (in conjunction with their experimental September wood duck season) when and if September teal seasons are restored in the Central and Mississippi Flyways.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended interim criteria for reinstatement of the September teal seasons as follows:

"Breeding population indices were viewed as the most appropriate basis for development of interim guidelines for reinstatement of September teal seasons. Final guidelines for September teal seasons should include a range of criteria, including breeding populations, habitat conditions, harvest rates, and development of an approach to evaluate teal harvest south of the United States."

"In the interim (1992), reinstatement of September teal seasons is recommended if the breeding population is sustained at 1991 levels (3.779 +/- 0.245 million). This criterion includes consideration of the precision of population surveys for blue-winged teal. Thus, a breeding population of 3.5 million breeding blue-winged teal would be considered sufficient to recommend reinstatement of the season for 1992. The Service and the Mississippi Flyway Council should jointly develop final implementation criteria (in conjunction with development of stabilized regulations strategies) by March 1994."

In addition, the Lower-Region Regulations Committee recommended that if the full September teal season is reinstated, teal be incorporated into

Kentucky's and Tennessee's September wood duck season daily bag limit and that the bag limit be 4 birds, including no more than 2 wood ducks. If an abbreviated September teal season is offered, the Committee recommended a daily bag limit of 2 teal or wood ducks, singly or in the aggregate.

The Central Flyway Council recommended reinstatement of the September teal season when the 3-year running average of the breeding population index equals or exceeds 3 million. The season length and daily bag limits should be the same as used in past years — — a 9-day season with a 4-bird daily bag limit. The September teal season should be reviewed if the 3-year running average of the breeding population index falls below 3 million.

4. Canada Geese.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the Service closely monitor existing regular and special seasons for the impacts on the Southern James Bay Population of Canada geese. They further recommend that the Service fully analyze data from existing seasons before expanding seasons that might cause cumulative harvest on this population of geese. They emphasized that special seasons should adhere to the criteria established by the Service.

A. Special Seasons

Since establishing the Criteria for Special Canada Goose Seasons on September 26, 1991, (at 56 FR 49110), the Service has become aware of the need to clarify certain terms and to include provisions for special early seasons to be held after the established dates. The Service herein proposes to modify the established special-season criteria. The revised criteria would clarify that special late Canada goose seasons may be held only after the close of the regular Canada goose season in that geographic area. Special early Canada goose seasons will be considered after the established dates but prior to the opening of the regular Canada goose season provided that at least 2 years of data gathered during the time period being considered are available to justify such a season. The Service expresses its concern for the protection of nontarget Canada goose populations during this later period and emphasizes that these data, and information from subsequent evaluations, must strongly indicate that such a season will successfully meet all established criteria for special early Canada goose seasons.

i. *Early Seasons.* The Atlantic Flyway Council recommended that new experimental seasons for resident Canada geese be initiated in 1992 in Erie, Cattaraugus, and Chautaugua Counties of New York and Bucks, Lehigh, Montgomery, Crawford, Erie, Butler, and Mercer Counties of Pennsylvania.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the Service approve operational status of the seasons in the Upper Peninsula and Northern Lower Peninsula portions of Michigan which were part of the original 1986–89 experimental season and that the Service approve a 3-year expanded eastern-Upper-Peninsula experiment.

The Committee further recommended that the experimental seasons in the Fergus Falls/ Alexandria and Southwest Border goose zones in Minnesota be extended pending completion of the final report. Preliminary final reports indicate that these seasons meet the criteria outlined in the Memorandum of Understanding between Minnesota and the Service, however, Minnesota is unable to complete the final report until 1991 band-recovery and parts-collection--survey data are obtained. The final reports will be completed prior to the March 1993 Council Meeting.

The Pacific Flyway Council recommended that the hunt area in Oregon be enlarged to include Youngs Bay, its tributaries south and east of the city of Astoria, and adjacent agricultural lands.

ii. *Late Seasons.* No recommendations received.

B. Regular Seasons

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the Service establish a 3-year experimental season in Boone, Callaway, Cole, and Howard Counties of central Missouri. This season would be 9–15 days long and would be held prior to October 15. The daily bag limit would be 3 geese. All geese harvested would be checked at mandatory check stations and a special permit would be required for hunters to participate. The recommended season would be in addition to the regular Canada goose season.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the Canada goose frameworks in Wisconsin be modified as follows: Eliminate the Pine Island and Theresa Zones and incorporate these areas into the Horicon Zone. Establish permit-issuance procedures and liberalize hunting authorizations if Wisconsin's Federally-assigned harvest quota for Canada geese exceeds 160,000 and 200,000, respectively. When Wisconsin's quota exceeds 160,000 birds, tag-zone hunters will be authorized to harvest a limited number of birds (controlled by tags) in the Exterior Zone, and Exterior-Zone hunters will be allowed to harvest a limited number of birds (controlled by tags) in the Horicon Zone. When Wisconsin's quota exceeds 200,000 birds, all zone restrictions will be dropped and hunters will be permitted to hunt anywhere in the State if they first obtain a Canada goose hunting permit, as long as an acceptable harvest-monitoring system is in place.

The Central Flyway Council recommended that an interim harvest strategy be developed for dark geese in the Central Flyway. This strategy should endorse attempts to increase harvest of all dark geese in the western tier and increase harvest on large Canada geese, while maintaining harvest of small Canada geese and white-fronted geese, in the eastern tier. During the interim, management plans will be revised.

5. White-fronted Geese.

The Central Flyway Council recommendation regarding an interim harvest strategy for dark geese in the Central Flyway involves white-fronted geese. See item 4. *Canada Geese.*

9. Sandhill Cranes.

The Central Flyway Council recommended no changes in the mid-continent sandhill crane hunting frameworks. The management plan is currently being revised. The Council believes that frameworks should not be modified prior to the revision and that future frameworks should abide by the revised management plan.

The Management Plan for Mid-Continent Sandhill Cranes was approved by the Central Flyway Council in 1981. The Service notes that substantial efforts were made during March 1992 to update this cooperative management plan. The Service suggests that the final revision should be completed prior to June 1993. In the interim, the Service also recommends that the Central Flyway Council submit a draft plan to the Pacific Flyway Council for joint concurrence because management of this population in both flyways is currently being guided by this management plan.

The Central and Pacific Flyway Councils recommended that an experimental season be initiated in Montana for the Rocky Mountain Population of sandhill cranes. All hunts would follow guidelines as outlined in the revised Pacific and Central Flyway Management Plan for Rocky Mountain Greater Sandhill Cranes.

16. Mourning Doves.

The Central Flyway Council recommended that the portion of the Texas Special White-winged Dove Area from Del Rio to Fort Hancock be discontinued and that this area be transferred from the South Zone to the Central Zone. Transferring this area to the Central Zone would permit the hunting of both white-winged doves and mourning doves to begin in this area on September 1, rather than limiting the hunt prior to September 20 to weekends during the special season.

The Central Flyway Council recommendation regarding the number of white-winged doves allowed in the aggregate daily bag limit involves mourning doves as well. See item 17. *White-winged and White-tipped Doves.*

17. White-winged and White-tipped Doves.

The Central Flyway Council recommendation regarding realignment of zone boundaries involves white-winged doves. See item 16. *Mourning Doves.*

The Council further recommended that the number of white-winged doves permitted in the aggregate daily bag limit during the Texas mourning dove season in Cameron, Hidalgo, Starr, and Willacy Counties in the Lower Rio Grande Valley be increased from 2 to 6 to match the statewide daily bag limit.

Finally, the Council recommended that the special white-winged dove season be increased from 2 days to 4 days in September if the Valley whitewing population increases to over 350,000 breeding birds.

23. Other.

A. Stabilized Regulations Development

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the Service improve the regulations-setting process with objectives of reducing costs of setting regulations while still maintaining a complete 3–year to 5–year periodic review.

The Pacific Flyway Council supported cooperative development of prescriptive regulations that will guide harvest strategies for duck populations. The Council believes expeditious development of harvest guidelines that incorporate habitat variables will lead to a more proactive, concerted, and meaningful approach to management, particularly as populations recover.

Public Comment Invited

The Service intends that adopted final rules be as responsiveas possible to all concerned interests, and therefore desires to obtain for consideration the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals. Such comments, and any additional information received, may lead to final regulations that differ from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time that the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) The need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms; and (2) the unavailability before mid-June of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, the Service believes that to allow comment periods past the dates specified is contrary to the public interest.

Comment Procedure

It is the policy of the Department of the Interior, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate by submitting written comments to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, room 634—Arlington Square, Washington, DC 20240. Comments received will be available for public inspection during normal business hours at the Service's office in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. All relevant comments received during the comment period will be considered. The Service will attempt to acknowledge received comments, but substantive response to individual comments may not be provided.

NEPA Consideration

NEPA considerations are covered by the programmatic document,"Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88-14)," filed with EPA on June 9, 1988. Notice of Availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582). The Service's Record of Decision was published on August 18, 1988, (53 FR 31341). Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES.**

Endangered Species Act Consideration

As in the past, hunting regulations this year will be designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species. Consultations are presently under way to ensure that actions resulting from these regulatory proposals will not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. It is possible that the findings from the consultations, which will be included in a biological opinion, may cause modification of some regulatory measures proposed in this document. Any modifications will be reflected in the final frameworks. The Service's biological opinions resulting from its consultation under section 7 are considered public documents and are available for public inspection in the Division of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

Regulatory Flexibility Act, Executive Order 12291, and Paperwork Reduction Act

In the **Federal Register** dated May 8, 1992, (57 FR 19865), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. This information is included in the present document by reference. As noted in the above **Federal Register** reference, the Service plans to issue its Memorandum of Law for the migratory bird hunting regulations at the same time the first of the annual hunting rules is finalized. This rule does not contain any information collection requiring approval by the Office of Management and Budget under 44 U.S.C. 3504.

Authorship

The primary authors of this supplemental proposed rulemaking are Robert J. Blohm and William O. Vogel, Office of Migratory Bird Management, working under the direction of Thomas J. Dwyer, Chief.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1992–93 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1918, as amended (16 U.S.C. 703–712) and the Fish and Wildlife Service Act of August 8, 1956, as amended, (16 U.S.C. 742 a–d and e–j).

Dated: June 2, 1992.

James F. Spagnole,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 92–14503 Filed 6–18–92; 8:45 am]

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